

MEMO ENDORSED



STATE OF NEW YORK
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DIVISION OF ECONOMIC JUSTICE
ANTITRUST BUREAU

July 15, 2014

Honorable Andrew L. Carter, Jr.
United States District Court
Southern District of New York
40 Foley Square, Room 435
New York, NY 10007
ALCarterNYSDChambers@nysd.uscourts.gov

Re: *United States of America et al. v. Twin America, LLC, et al.*; No. 12-cv-08989
(ALC) (GWG); Request for joint opposition memorandum to Defendants'
disgorgement-related *Daubert* motions

Dear Judge Carter:

I write to seek the Court's permission to combine two opposition briefs that Plaintiffs intend to file this week into a single brief, which will be shorter and contain far less duplication than would occur if these briefs were filed separately. Specifically, Plaintiffs seek to file a single brief of not more than 40 pages in response to two of Defendants' *Daubert* motions relating to the issue of disgorgement. This single 40-page brief would replace two separate briefs which, standing alone, would be permitted under the Court's rules to be 25 pages each. Plaintiffs have conferred with the Defendants, who do not object to this proposal.

On June 20, 2014, Defendants served three *Daubert* motions, each seeking to exclude the testimony of one of Plaintiffs' three expert witnesses. Two of the motions focused on Plaintiffs' two expert witnesses (Dr. Guy Ben-Ishai and Mr. Sumanta Ray) whose testimony Plaintiffs will offer to assist the Court in calculating disgorgement. (Dkt. 72 and 74.) Plaintiffs' opposition to the *Daubert* motions are due this Friday, July 18.

The *Daubert* motions targeting Plaintiffs' disgorgement experts raise similar issues relating, *inter alia*, to the appropriate legal standards and burdens of proof that apply in disgorgement cases. These issues can be briefed together more efficiently, and doing so will

reduce duplication and also sharpen the issues in dispute. Accordingly, Plaintiffs request permission to file the proposed single 40-page brief in response to both motions.

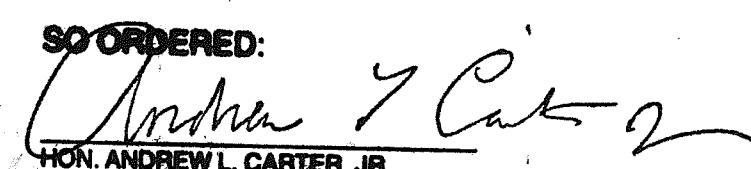
Respectfully Submitted,

s/ Eric J. Stock
Eric J. Stock

Counsel for Plaintiff the State of New York

Cc: Counsel for All Parties (BY ECF & ELECTRONIC MAIL)

SO ORDERED:


HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE

7-16-14